



United States Attorney  
Southern District of New York

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The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

April 18, 2019

**By ECF**

The Honorable Lewis A. Kaplan  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: *United States v. Vladimir Tsatsin, S1 11 Cr. 878 (LAK)***

Dear Judge Kaplan:

The Government respectfully submits this letter pursuant to the March 27, 2019 Order of Gabriel W. Gorenstein, United States Magistrate Judge (Dkt. No. 192), directing the Government to respond by April 19, 2019 to the Motion for Accounting (“Accounting Motion”) submitted by defendant Vladimir Tsatsin (“Defendant”) (Dkt. No. 193).

The Accounting Motion was appended to Defendant’s Reply Memorandum in further support of his Motion for Relief pursuant to 28 U.S.C. § 2255. (Dkt. No. 188 at 43-44). As a threshold matter, a section 2255 petition can only be used to attack the custodial portion of a defendant’s sentence. The non-custodial portion of a defendant’s sentence is not subject to collateral attack because “the monetary components of criminal sentence, such as fines and restitution orders, generally do not restrict liberty so severely as to satisfy the [jurisdictional] custody requirement of § 2255.” *United States v. Rutigliano*, 887 F.3d 98, 104-05 (2d Cir. 2018) (citing *Kaminski v. United States*, 339 F.3d 72, 86 (2d Cir. 2003) (holding that the restitution order in question was not custodial and therefore not subject to attack through a section 2255 petition)). Likewise, forfeiture orders may not be attacked by way of a section 2255 motion. *Lasher v. United States*, No. 12 CR. 868 (NRB), 2018 WL 3979596, at \*9 (S.D.N.Y. Aug. 20, 2018), cert. denied, 139 S. Ct. 253, 202 L. Ed. 2d 169 (2018), reh’g denied, 139 S. Ct. 869, 202 L. Ed. 2d 636 (2019) (“As a threshold issue, forfeiture orders may not be challenged by means of a §2255 habeas petition . . .”.) Therefore, the Accounting Motion is not sustainable as any part of Defendant’s section 2255 motion for relief.

Despite the absence of legal foundation for Defendant’s request, the Government responds to the Accounting Motion and hereby attaches the Final Order of Forfeiture entered by the Court on April 30, 2014 (“Final Order”) (Dkt No. 49). Notice of the Government’s intent to forfeit the Subject Property listed in the Final Order was provided to Defendant on February 6,

2014. Of the Subject Property, to date the Government has taken possession of a total of USD 2,194,985.01.

Respectfully submitted,

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